

**R E M A R K S****I. Status of the Application**

Claims 1-63 are pending. Claims 1, 19, 34, and 49 are amended. Claims 61-65 are added.

**II. Claim Rejections - 35 USC § 102**

Claims 1-16, 18-29, and 31-60 have been rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2007/0199030 (“Ellis”). Claims 1, 19, 34, and 49 are amended and the rejection is respectfully traversed.

**Amended Claims 1 and 34**

Independent claim 1 defines an apparatus for receiving programming content. Claim 1 has been amended to require “a memory for providing a first application and a second application, the first application being used to realize at least a first programming service for providing first programming content in accordance with a broadcast schedule, the second application being used to realize at least a second programming service for providing second programming content after broadcast thereof, the second programming content being recorded during the broadcast thereof at a location remote from the apparatus, the second programming service being available only with respect to the second programming content.” Claim 1 also requires “a device for receiving information concerning a change from a first program source afforded the first programming service to a second program source afforded the second programming service, the second application being activated in response to the change and

becoming receptive to a request for obtaining a selected portion of the second programming content.” Support for the amendment to claim 1 is found at page 28, lines 25-29, for example.

Independent claim 34 is a method claim corresponding to claim 1, and has been amended in a similar manner.

Ellis discloses a media content distribution system that allows users to record media content on a remote server. A central facility sends program guide data to a user’s television equipment via a network. (Paragraph [0058]). Television programs, including regular programming content, as well as premium, pay-per-view, music, etc., may be selected by the user through the interactive program guide and recorded at the central facility. ([0060], [0074]). Recorded programs are subsequently provided to the user on-demand. ([0074]). When a user requests to view a recorded program, the program guide sends a retrieval request to the remote server, which retrieves the program from storage and transmits it to the user’s television equipment. ([0091]-[0097]). The user may control the progress of the program with functions such as rewind or stop. ([0095]).

Ellis does not teach or suggest “a memory for providing a first application and a second application, the first application being used to realize at least a first programming service for providing first programming content in accordance with a broadcast schedule, the second application being used to realize at least a second programming service for providing second programming content after broadcast thereof, the second programming content being recorded during the broadcast thereof at a location remote from the apparatus, the second programming service being available only with respect to the second programming content,” as required by amended claim 1. In accordance with an embodiment of the invention described in amended claim 1, the “second programming service,” which allows a user to play back a recorded

program after broadcast thereof, is available only for the “second programming content.” The record/playback service is not available to programs provided “in accordance with a broadcast schedule” (the “first programming content”). In contrast, in Ellis, all “programs,” including regularly scheduled television programs broadcast “in accordance with a broadcast schedule,” can be recorded and played back on-demand. ([0060],[0074]).

None of the other cited art teaches or suggests the combination of amended claim 1, either.

The reasons set forth above apply equally to amended claim 34, which corresponds to amended claim 1. Therefore, amended claims 1 and 34, and their respective dependent claims, are patentable over the cited art. The dependent claims also include patentable limitations.

#### Amended Claims 19 and 49

Independent claims 19 and 49 have been amended in a manner similar to amended claims 1 and 34. Therefore, for the reasons set forth above, amended claims 19 and 49 also are patentable over the cited art. The dependent claims also include patentable limitations.

### **III. Claim Rejections - 35 USC § 103**

Claims 17 and 30 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Ellis in view of U.S. Patent Publication No. 2002/0178447 (“Plotnick”). The rejection is respectfully traversed.

Claims 17 and 30 depend respectively from amended claims 1 and 19. Amended claims 1 and 19 are patentable over the cited art for the reasons set forth above. Therefore, claims 17 and 30 are also patentable over the cited art.

**IV. New Claims 61-65**

New claims 61-65 recite features that are described in the specification.

New claim 61 depends from amended claim 1 and further requires that “the first programming content is provided via one or more first channels” and “the second programming content is provided via one or more second channels different from the one or more first channels.” Neither Ellis, nor any of the other cited art, teaches or suggests providing “first programming content” which is available only in accordance with a broadcast schedule (and cannot be recorded and played back) and “second programming content” which can be recorded and played back, on different channels, as required by new claim 61.

None of the cited art teaches or suggests the limitations of new claims 62-65, either.

Therefore, new claims 61-65 are patentable over the cited art.

**V. Conclusion**

In view of the foregoing, each of claims 1-65, as amended, is believed to be in condition for allowance. Accordingly, withdrawal of the rejections and reconsideration of the claims are respectfully requested.

Respectfully submitted,  
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